

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

United States of America,)	CRIMINAL NO. 1:01-173-CMC
)	
v.)	OPINION and ORDER
)	
Michael Bernard Lee,)	
)	
Defendant.)	
_____)	

This matter is before the court on Defendant's letter requesting termination of supervised release. The Clerk is directed to file this letter as of the filing date of this Order.

The United States Probation Office has notified this court by letter that it opposes the request at this time, and that the Government concurs with its position.

Title 18 United States Code Section 3583(e) provides that

The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7)--

(1) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice

Considerations contained in § 3553 include, *inter alia*, the nature and circumstances of the offense and the history and characteristics of the defendant; the ability to afford adequate deterrence to criminal conduct; the need to protect the public from further crimes of the defendant; and the need to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. 18 U.S.C. § 3553.

"The plain language of the statute illustrates that § 3583(e), in the typical case, allows a

conduct-based inquiry into the continued necessity for supervision after the individual has served one full year on supervised release.” *United States v. Pregent*, 190 F.3d 279, 282-83 (4th Cir. 1999).

However, the statute

is not exclusively limited to considerations of conduct. The language of the statute notes that the district court ‘may’ terminate supervised release ‘if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.’ The phrase ‘the interest of justice’ does give the district court latitude to consider a broad range of factors in addition to an individual’s behavior in considering whether to terminate the supervised release period.

Id. at 283 (citation omitted).

While it appears Defendant’s behavior since his release has been productive and positive, the court declines to terminate Defendant’s supervised release at this time. Defendant’s offense was very serious, as he used his position of authority to conspire with others to distribute drugs within a South Carolina state prison. Additionally, Defendant has only served two of the five years of supervised release which was ordered at his original sentencing. Finally, regardless of whether or not Defendant is on supervised release, he will undoubtedly be required to disclose his prior criminal record to current and potential employers.

Defendant’s request for termination of supervision is, therefore, **denied**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
March 15, 2011